



**UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/018,104	02/03/98	HOBART	J PHAN-00100 <sup>WC</sup>

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QM32/0802

EXAMINER
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SHAY, D	
ART UNIT	PAPER NUMBER

3739  
DATE MAILED:

08/02/00 <sup>13</sup>

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/018,104

Applicant(s)

Hobart et al

Examiner

J. Shay

Group Art Unit

3739

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on May 19, 2000
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-40 is/are pending in the application.
- Of the above claim(s) 15, 16, + 25-40 is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-14 & 17-24 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 10, 11
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

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The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3, 6-8, 11-14, and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sklar et al in combination with Dew ('969), Belkin et al and Anderson et al. Sklar et al teach a laser system including multiple lasers with a graphical interface and teach that it can be used for any type of surgery and with any type of laser and that the depth of the laser action can be input and displayed. Dew ('696) teaches the use of a carbon dioxide laser as a cutting laser in a laser system comprised of multiple lasers and teaches that the power of a pulse determines the amount of heat deposited in the tissue, Balkin et al teaches that carbon dioxide lasers can be used to heat, rather than cut tissue. Anderson teaches the way parameters such as absorptivity, spot size, and pulse width interrelate to control the amount of energy absorbed by tissue. It would have been obvious to the artisan of ordinary skill to use a carbon dioxide laser as taught by Dew (696) in the graphical user interface of Sklar et al, since this is to be used with any laser, as taught by Sklar et al, to also configure the laser to coagulate as taught by Belkin et al, since this would render the device more versatile, at no extra cost, and is within the scope of one having ordinary skill in the art to shown by Anderson et al, and employ an articulated arm with refocussing optics, since these are notorious in the art for transporting infrared radiation such as that from Carbon dioxide lasers, official notice of which is hereby taken, thus producing a device such as claimed.

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Claims 4, 5, 9, 10 and 20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sklar et al in combination with Dew ('969), Anderson et al, and Belkin et al as applied to claims 1-3, 6-8, 12-14, and 17-18 above, and further in view of Assa et al. Assa et al teach a scanning handpiece and the equivalence of carbon dioxide and Erbium YAG lasers. Thus it would have been obvious to the artisan of ordinary skill to employ a handpiece as taught by Assa et al, since this allows more consistency of treatment and to employ an erbium laser, since these are equivalent to the carbon dioxide laser, thus producing a device such as claimed.

Applicant argues that Sklar et al does not teach a medical laser-system with two or more lasers. This argument is not well founded in view of the disclosure at column 16, lines 60-66 of Sklar et al. Similarly the argument drawn to Dew ('969) are unfounded figure 2 of Dew ('969) clearly shows a laser system with multiple lasers and a controller with a timer to time length of the pulse. There is no disclosure either express or implied in Dew ('969) that the system can be used only once for coagulation. Thus it is clearly capable of producing a plurality of coagulative pulses, each of which would be controlled by the control system.

Since both Sklar et al and Dew ('969) teach a medical laser system comprising at least two lasers arguments drawn to the absence thereof in Belkin et al and Anderson et al do not rebut the prima facie case of obviousness established by the combination.

Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

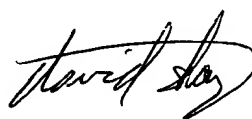
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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to David Shay at telephone number (703) 308-2215.

David Shay:bhw  
July 15, 2000

  
**DAVID M. SHAY  
PRIMARY EXAMINER  
GROUP 380**